



COUNCIL AGENDA: 8-5-14
ITEM: 2.22

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Toni J. Taber, CMC
City Clerk

SUBJECT: SEE BELOW


DATE: 7-30-2014

SUBJECT: SB 785 (WOLK) – DESIGN-BUILD

RECOMMENDATION

As referred by the Rules and Open Government Committee on July 30, 2014 and outlined in the attached memo previously submitted by the Rules and Open Government Committee, adopt a position of support for SB 785 (Wolk).

CITY COUNCIL ACTION REQUEST

Department(s): Public Works	Date: 7/23/14	Coordination: City Manager's Office, Sacramento Legislative Representative, and City Attorney	Dept. Approval: /s/ David Sykes
			CMO Approval: 

SUBJECT: SB 785 (WOLK) – DESIGN-BUILD

RECOMMENDED POSITION: SUPPORT

RECOMMENDED ACTION:

1. Adopt a position of support for SB 785 (Wolk).
2. Recommend this item be agendaized for the August 5, 2014, City Council Meeting so that the City's legislative representative can advocate the City's support for SB 785.

BILL SYNOPSIS:

State law currently contains a number of different statutes authorizing the use of design-build as a project delivery method. SB 785 would consolidate many of these statutes and eliminate inconsistencies in existing statutory language. It would enact uniform provisions authorizing certain state and local agencies to utilize the design-build procurement process for specified public works projects costing more than \$1 million.

"Design-bid-build" is the traditional method of delivering public works construction projects. Under the design-bid-build method, design and construction contracts are assigned to two separate entities. The contract for construction must be publicly bid and awarded to the lowest responsible bidder that submits a responsive bid.

Under the design-build project delivery method that would be authorized by SB 785, a single "design-build" entity could be procured to be responsible for both the design and construction of the project. The design-build entity would arrange all architectural, engineering, and construction services, and is responsible for delivering the project based upon performance criteria set by the public agency. SB 785 would authorize the procurement of a design-build contract through either a low bid process or a competitive proposal process by which the proposals are evaluated on a "best value" basis.

IMPACTS TO CITY OF SAN JOSE:

In March 2004, San José voters approved Measure D, amending the City Charter to allow the use of design-build procurement for certain public works projects over \$5,000,000. Significantly, the design-build procurement under the City Charter applies only to public works projects that constitute a *municipal affair*.

The San José – Santa Clara Regional Wastewater Facility is embarking on a \$1.4 Billion Capital Improvement Program that will take place over the next decade. The City of San José is responsible for operating and maintaining the Facility pursuant to a joint powers agreement between the City and eight neighboring cities and Sanitation Districts. Because the Facility provides *regional services*, not specific to the City of San José, the capital projects being undertaken are generally not municipal affairs and the Facility is unable to utilize the City's Charter authority to use the design-build procurement process.

The use of design-build procurement would be a valuable tool to efficiently deliver capital projects at the Wastewater Facility. Although design-build requires a higher level of management sophistication since design and construction occur simultaneously, its benefits include accelerated project completion, cost containment, reduction of construction complexity, and reduced risk exposure by shifting the liability and risk for cost containment and project completion to the design-build entity.

If enacted, SB 785 would provide authority to utilize design-build for the Facility's expanding capital improvement program.

POLICY ALIGNMENT:

SB 785 aligns with the City's Legislative Policy Guidance to protect local control by enabling the City to utilize design-build procurement for the Regional Wastewater Facility in a manner similar to the City's own Charter Authority. The bill also aligns with Policy Guidance related to promoting investment in infrastructure maintenance and rehabilitation by enabling the use of an effective and increasingly common form of project delivery procurement for wastewater treatment facilities.

SUPPORTERS/OPPONENTS:

Support

Associated General Contractors [CO-SPONSOR]	County of Santa Clara
Design-Build Institute of America [CO-SPONSOR]	East Valley Water District
California Special Districts Association	Infrastructure Delivery Council
California Transit Association	Marin Healthcare District
CH2M HILL	Santa Clara Valley Transportation Authority
County of Los Angeles	Sonoma-Marín Area Rail Transit District (SMART)
County of San Diego	

Oppose

Air Conditioning Trade Association
Associated Builders and Contractors - San Diego Chapter
Associated Builders and Contractors of California
Plumbing-Heating-Cooling Contractors Association of California
Western Electrical Contractors Association

Registered Support/Opposition to the bill as amended June 17, 2014, as shown in the Bill Analysis prepared for the meeting of the Assembly Committee on Local Government on June 25, 2014.

STATUS OF BILL:

SB 785 passed the Senate on January 26, 2014 (Ayes 35; Noes 0). It passed the Assembly Committee on Local Government on June 25, 2014, (Ayes 7; Noes 2) and was referred to the Assembly Committee on Appropriations.

FOR QUESTIONS CONTACT: MICHAEL O'CONNELL, DEPUTY DIRECTOR – (408) 975-7333